



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 175826

PRELIMINARY RECITALS

Pursuant to a petition filed on July 26, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether the Department erred in its denial of the PA request for the Xyrem medication in PA # [REDACTED].

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Lynn Radmer, R.Ph. (in writing)
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. PA [REDACTED] was submitted by [REDACTED] on behalf of petitioner requesting the Xyrem medication.

3. The Xyrem medication is a prescription only Schedule II controlled substance and has a strong potential for abuse.
4. The Department issued rules pertaining to the PA for Xyrem to prescribers in December 2015 (see attachments to ex. #1). Among the criteria for approval in this case would be the petitioner's agreement to be abstinent from the use of alcohol during treatment.
5. The clinical notes and record did not demonstrate that the petitioner agreed to such condition.
6. The PA was denied.
7. Petitioner appealed.

DISCUSSION

At hearing, petitioner conceded that she did not agree to the alcohol abstinence condition when meeting with her physician. Petitioner now states that she would agree to this. This may be so, but a new PA request will need to be filed and supporting documentation considered by the program.

I note that the program also denied this A on the basis that the medical documentation was not sufficient to determine whether petitioner's narcolepsy is with or without cataplexy. The Department notes that if with cataplexy, then the program would require treatment with medications other than Xyrem before Xyrem will be considered.

In sum, the PA request was insufficient as written and the Department was correct to deny it.

CONCLUSIONS OF LAW

The PA request failed to meet the requirements of approval.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

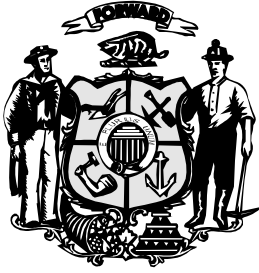
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of

Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 12th day of October, 2016

\s_____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 12, 2016.

Division of Health Care Access and Accountability